

Remarks

Reconsideration and further examination of the above-identified patent application in light of the present Amendment and Remarks is respectfully requested.

Claims 2-3, 7-11, and 13-23 were pending prior to this Amendment.

Claims 14, 20 and 23 have now been canceled.

Claims 1, 4-6, and 12 were previously canceled.

Claims 7, 9, 11, 15, 16 and 17 were amended.

Claims 2-3, 7-11, 13, 15-19, and 21-22 are now pending for consideration of the Supervisory Primary Examiner.

A clean set of claims as amended is enclosed in accordance with the request of the Supervisory Patent Examiner.

In particular, the matters objected to in claims have been corrected or canceled as per the Examiner's requests in order to make the claims more definite and clear to better comply with 35 USC §112.

The claims have been amended to better comply with the requirements of 35 USC §100 and to more particularly point out and distinguish applicants' invention over the references of record. Antecedent basis and support for the amended matter in the claims are found in the specification, original claims and drawings.

The Supervisory Primary Examiner has indicated that claims 14, 20 and 23 contain allowable subject matter, and were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

In compliance with the Supervisory Patent Examiner's request, independent claim 7 from which allowable claim 14 directly depends has been rewritten to include the allowable subject matter of claim 14 in order to put claim 7 in condition for allowance.

Also, independent claim 9 from which allowable claim 20 directly depends has been rewritten to include the allowable subject matter of claim 20 in order to put claim 9 in condition for allowance.

Furthermore, independent claim 11 from which allowable claim 23 directly depends has been rewritten to include the allowable subject matter of claim 23 in order to put claim 11 in condition for allowance.

Claims 2, 3, 8, and 13 have been amended to depend directly from allowable claim 7 (previously allowable claim 14) and, therefore, include all the features and limitations of allowable claim 7. Accordingly, claims 2, 3, 8, and 13 should now be allowable.

Also, claims 10 and 18 have been amended to depend directly from allowable claim 9 (previously allowable claim 14) and, therefore, include all the features and limitations of allowable claim 9. Accordingly, claims 10 and 18 should now be allowable.

Furthermore, claims 21 and 22 have been amended to depend directly from allowable claim 11 (previously allowable claim 23) and, therefore, include all the features and limitations of allowable claim 11. Accordingly, claims 21 and 22 should now be allowable.

Moreover, independent claims 16 and 17 have been amended recited allowable subject matter from allowable claims 14, 20 and/or 23. Accordingly, claims 16 and 17 should now be allowable.

In further compliance with the Supervisory Patent Examiner's request, antecedent basis and support for the amended claims in compliance with 35 USC §100 and 35 USC §112 are specified hereafter.

The support of the amendment of "Fk=I for simplification" is paragraph 0140 of the specification.

The support of the amendment of "a communication system or a sound system or sound field reproduction or noise control" is paragraphs 0039 and 0173.

The support for Claims 7, 9, 11 and 17 of the amendment about "variable Rk" is equation (14) etc.

The support of the amendment about "a step at which the processing section decreases the upper limitfilter" is found in Figure 2 and its explanation in the specification.

The support of the amendment about "the forgetting factor" is original claim 3 and the specification, equation (15), paragraph 0124, etc.

An example of a "storage section" and an "input section" is described in the embodiment, for example, "a storage section 105" and "an input section 102" in Figure 2.

Claims 15 and 16 have been amended so as to be directed to "a computer program product" in accordance with the suggestion of the Supervisory Patent Examiner.

The phrase "which are deleted J1(-1) and J1" has been deleted from the claims.

The pending claims which all now require the allowable subject matter are not anticipated or obvious from: N1 (Nishiyama et al. "H (infinity) learning of Layered Neural Networks", N2 (Nishiyama "Robust Estimation of a Single Complex Sinusoid in White Noise-H Filter Approach"), and/or N3 (Nishiyama "A Nonlinear Filter for Estimating a Sinusoidal Signal and Its Parameters in White Noise: On the Case of a Single Sinusoid").

It is submitted that it would not be an obvious matter of choice for one skilled in the art to reconstruct N1, N2 and N3 to achieve applicant's invention as recited in applicant's claims without the benefit of hindsight of applicant's disclosure and such is clearly improper. As the Federal Circuit Court of Appeals (formerly the U.S. Court of Customs and Patent Appeals) has emphasized, the Supervisory Primary Examiner must be ever alert not to read obviousness into an application on the basis of applicant's own statements and must further view the prior art without reading into that art applicant's teachings, *In re Sponnoble*, 405 F. 2d 578, 160 USPQ 273 (CCPA 1969). It is not enough for a valid rejection of the patent application to view the prior art in retrospect; once applicant's disclosure is known, the prior art should be viewed by itself to see if it fairly discloses what the applicant has done, *In re Schaffer*, 220 F. 2d 476, 108 USPQ 326 (CCPA 1956).

A prior patent is a reference only for what it clearly discloses or suggests; it is improper use of a patent as a reference to modify it to that which it does not suggest; *In re Hummer*, 113 USPQ 66 (CCPA 1957). See also *In re Stencil*, 4 USPQ2d 1071, 1073 (Fed. Cir. 1987).

Inasmuch as the preceding amendment complies with the Supervisory Primary Examiner's requests, cures the Supervisory Patent Examiner's objections and patentably distinguishes applicant's remaining claims over the cited prior art references of record, it is respectfully submitted that the above-identified application is now in condition for allowance. A Notice of Allowance is respectfully requested.

The Supervisory Patent Examiner is invited and encouraged to contact the undersigned attorney in order to expedite this application to allowance, if the preceding does not already place the above-identified application in condition for allowance.

Respectfully submitted,

A handwritten signature in black ink that reads "Thomas W. Tolpin". The signature is written in a cursive, slightly stylized font. The first name "Thomas" is written with a capital 'T' and a period, followed by "W." and "Tolpin". The signature is positioned above a horizontal line.

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